

In the Matter of the Impasse Between)	PERB Case No. SA-IM-3403-E
)	
)	
TWIN RIVERS UNIFIED SCHOOL DISTRICT,)	FACTFINDING REPORT
Employer,)	AND RECOMMENDED TERMS
)	OF SETTLEMENT
and)	
)	
TWIN RIVERS UNITED EDUCATORS,)	
UNION.)	
)	

Chairperson: David Handsheer, Arbitrator

Employer Panel Member: Ronald W. Bennett, President - School Services of California

Union Panel Member: Cathy McGuigan, CTA Staff, Support Specialist

Background

Twin Rivers Unified School District (District) and the Twin Rivers United Educators, (TRUE, Union or Association) are parties to a collective bargaining agreement, which expires on June 30, 2017. The parties were allowed under CBA to re-open Articles for the 2016-2017 school year. On February 23, 2016, the District and the Association each “sunshined” its initial contract proposals for the 2016-2017 negotiations year. The District opened Article 8- Transfer, Article 9- Extra Duty Assignments. The Association opened Article 4 - Work Day Work Year and Article 12 - Safety. The parties mutually agreed to re-open Article 7 - Class Size. Articles 13 - Salary and Article 14 - Employee Benefits were automatically reopened under the terms of the Collective Bargaining Agreement.

The parties were diligent, but unsuccessful, in their attempts at resolving these disputes.

The two sides met in negotiations and exchanged proposals on nine (9) occasions in 2016, beginning on May 20, 2016. On October 27, 2016 there was a joint request for an impasse determination. On November 7, 2016 existence of an impasse was declared by PERB. A State mediator was assigned and met with the parties on four occasions and declared that factfinding procedures should be applied to the dispute on April 5, 2017. There was one final attempt at mediation on May 8, 2017, which did not result in resolution. On May 8, PERB appointed the undersigned to serve as factfinding chair.

On May 12, 2017, the District supplied the Association with what it termed its Best, Last and Final Offer. The proposal expanded the approach to negotiations to inclusion of 2017-2018. The District explained the logic of the proposal as that it gave the District an opportunity to meet some of the Association's goals over a two year period and that many of the outstanding issues would be mooted by passage of time if limited to 2016-2017. The Association responded by letter dated May 19, 2017, in which Kenya Spearman, of Regional UniServ Staff for California Teachers Association, Region Two, objected to the proposal as illegal and improper under EERA. Ms. Spearman, on behalf of the Association, termed the proposal outside the scope of the parties' 2016-2017 bargaining impasse and asserted that it contained issues not legally sunshined by the parties or discussed at the bargaining table. Further, the letter objected to conditioning acceptance of the proposal on settlement of unfair labor practices and grievances. The Association, in this letter, insisted that the District cease and desist and that the Association would pursue all legal remedies including filing an unfair labor practice charge with PERB.¹

¹On behalf of the factfinding panel, the Chair informed the parties that the legal aspect of the matter would be dealt with outside of the factfinding hearing and report. At the hearing the District did not continue to link its proposals to settlement of outstanding ULP's or grievances.

The factfinding panel convened a hearing on May 22, 2017. Both parties presented facts and argument in support of their respective positions. After presentation of facts the parties continued in attempts to negotiate a resolution. The parties were provided until June 1 to continue efforts at resolving issues. Rather than utilizing closing briefs, the panel met several times telephonically to discuss approaches at reaching resolution. The parties have waived the 30 day timeline for issuance of this Report by mutual agreement pursuant to Gov. Code section 3548.3(a). The Chair makes the following recommendations.

Factfinding Criteria

Pursuant to California Government Code Section 3548.2, the panel has considered and been guided by the following statutory criteria:

1. State and federal laws that are applicable to the Employer.
2. Stipulations of the parties.
3. The interests and welfare of the public and the financial ability of the public schools.
4. Comparison of the wages, hours and conditions of employment of the employees involved in the factfinding proceeding with the wages, hours, and conditions of employment of other employees performing similar services and with other employees generally in public school employment in comparable communities.
5. The Consumer Price Index for goods and services, commonly known as the cost of living.
6. The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays, and other excused time, insurance and pensions,

medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.

7. Such other factors, not confined to those specified in paragraphs 1 through 6, inclusive, which are normally and traditionally taken into consideration in making such findings and recommendations.

Stipulations and/or uncontested facts

1. The Twin Rivers Unified School District is a public school employer within the meaning of Section 3540.1(k) of the Educational Employment Relations Act.
2. The Twin Rivers United Educators is a recognized employee organization within the meaning of Section 3540.1(1) of the Educational Employment Relations Act and has been duly recognized as the representative of the certificated non-management bargaining unit of the Twin Rivers Unified School District.
3. Whether the parties to this factfinding have complied with the public notice provisions of Government Code section 3547 (EERA, "Sunshining" requirement) is disputed by the Association as far as the District's May 12, 2017 offer, as is described above.
4. The parties have complied with the Educational Employment Relations Act with regard to the selection of the Factfinding Panel and are timely and properly before the Panel.
5. The parties have complied with all the requirements for selection of the factfinding panel and have met or waived the statutory time limitations applicable to this proceeding.
6. The contract issues appropriately before the Factfinding Panel are as follows:

Article 4 — Work Day/Work Year

Article 7— Class Size

Article 8 — Transfers/Reassignments

Article 9 — Extra Duty Assignments

Article 13 — Salary

Article 14 — Employee Benefits

Recommendations

The first issue to determine is particularly significant: whether this recommendation will encompass proposals for 2016-2017 and 2017-2018 or be limited to 2016-2017. The parties began by negotiating re-openers for 2016-2017. However, the negotiations continued to impasse and have now overtaken 2016-2017. Consideration of this issue is complicated by the District's change in direction late in the process to include 2017-2018 on May 12, 2017 and the Association's legal challenges to that proposal. During the factfinding hearing and during negotiations that followed the hearing, the parties did exchange ideas for resolution that included 2017-2018. The following recommendations are premised on including both 2016-2017 and 2017-2018 for the following reasons.²

A primary function of a Factfinding Report is to provide the parties a basis upon which to make good faith efforts to reach settlement. In the considered opinion of the factfinding chair, the parties are much closer to resolution using a two year framework than limiting proposed settlement to 2016-2017. As a practical matter, many of the issues regarding 2016-2017 are moot because of passage of time. The benefit to Association members is greater when using the two year time period upon which to frame proposals. In addition, after a year of contentious

²This recommendation should not be interpreted as sanctioning the characterization of the District's May 12, 2017 proposal as its Last, Best and Final Offer, as that term is defined by EERA.

bargaining, entering a two year agreement provides the parties closure, a chance to re-set negotiation positions and to enter into the next negotiation (which would start in a few months) in a more productive manner.

All agreements represented by written proposals shall be considered included as part of the new Collective Bargaining Agreement. Any proposed change to the Collective Bargaining Agreement that is not addressed herein and has not been agreed to by the parties shall not be incorporated in the new Agreement, unless those provisions are hereafter negotiated by the parties in settlement of this dispute.

ARTICLE 1-GENERAL PROVISIONS.

Adoption of a two year agreement requires change to Duration of Agreement. It is recommended that the expiration date be changed to June 30, 2018.

1.1 - The parties will commence negotiations for successor agreement no later than January 20, 2018. Proposals shall be sunshined by December 15, 2017.

ARTICLE 4 - WORK DAY/WORK YEAR

4.2.8.1.5

Association has proposed minimum of a two day notice for meetings and training, referenced in Article 4. The District has agreed, but added the possibility to waive the notice in emergency circumstances. I find this to be a reasonable construction of this provision.

4.5.1

The parties are in agreement that elementary and secondary substitute rates will be raised to \$50 during preparation period. In light of the fact that 2016-2017 has passed, the change will take effect on July 1, 2017.

4.9.2

The work year will be reduced by one day without any loss of pay, beginning in 2017-2018, implemented in accordance with District proposal.

ARTICLE 7 - CLASS SIZE

The issue of class size is a legitimate issue of concern for both the District and the Association. Both sides agree that it is a vital issue for provision of quality educational services. Both sides have expressed the desire to keep class size as small as possible. Class size is a problem that is susceptible to an incremental approach, assuming the parties proceed in good faith and are cooperative. Class size for TK-3, as distinguished from general elementary grades, is encompassed in Education Code section 42238.02(d)(2), which ties aspects of funding to various formulae that seek to limit TK-3 class size to 24.

The District claims and has presented evidence that its average class size across the board is below average for comparable school districts. The Association has objected to this characterization but did not present specific evidence of individual problems with class size. The District argues that lowering class size to the statutory goal of 24 for TK-3 classes would subject it to an inadvertent or unavoidable violation in a single school site that would jeopardize the finding provided pursuant to the Education Code. The Education Code allows parties to alternatively negotiate class size arrangements for TK-3 and avoid the draconian funding consequence set out in the Code. One brake on exceeding class size is the payment to the teacher for any and all students over the maximum for that class as set out in the Collective Bargaining Agreement.

With these concerns in mind, it is recommended,

7.1.2 ---- TK-3 will change maximum class sizes to 26. However, language should be inserted that clarifies that the goal is 24 as a maximum class size and that any class that exceeds 24 is an exception and requires a specific explanation by the District.

Laboratory classes inclusive of shop, culinary and lab science classes will change maximum class

sizes to 28.

7.5.1 --- Overage payments for elementary schools shall be raised to \$60 per student and will be paid four (4) times a year.

7.5.2 --- Overage payments for secondary schools shall be raised to \$60 per student and will be paid three (3) times a year.

Inclusion of the revised Article 7.1.2 constitutes alternative collectively bargained provisions for TK-3 under Education Code section 42238.02(d)(3).

ARTICLE 8 - TRANSFERS/REASSIGNMENTS

The District proposed a process for voluntary transfers as part of a pilot project and made other proposals regarding job postings. The Association proposed voluntary transfers be permitted throughout the year. The parties were not able to agree and no progress during the factfinding process was made. It is recommended that Article 8 remain as *status quo*.

ARTICLE 9 - EXTRA DUTY ASSIGNMENTS

9.3.4 — Stipends will be increased to \$1900 for the Assistant to the Principal, beginning in 2017-2018 school year.

9.4.1 — Association proposal of 9/28/16, providing credit under credible compensation under STRS and a raise in listed stipends will be incorporated as part of new Agreement. However, the stipend increase will be implemented beginning for the 2017-2018 school year.

9.5 Addition of up to fifteen (15) stipends subject to continued funding of supplemental and concentration grants, as proposed by District in its 10/27/16 proposal. This provision will take effect for 2017-2018 school year.

\$100 increase for all stipends in Categories 2, 3 and 4 to take place in 2017-2018.

ARTICLE 12 - SAFETY

The parties have reached agreement on this Article

ARTICLE 13 - SALARY

Not surprisingly, the parties are apart on this issue. The District argues that compared to

other similarly situated school districts the District is above average and near the top in salaries paid at all levels. The Association objects to the choice of comparable districts, and utilizing its asserted comparable districts, argues that the the District is average in payment of salaries at most levels, with a few below average. Neither party supplied comparable percentage increases for the school years in question.

The District argues that under the parties' 2015 negotiated formula, the calculation called for a 2.7% decrease in salary, but allowed the parties to negotiate the issue of salaries, nonetheless. The Association points out that the District has made no claim of inability to pay and notes that funding has increased, with ongoing revenue increasing by 4.90% in 2016-2017 and projected to increase by 2.59% in 2017-2018.

The District's last offer was an increase of 2% on schedule and 2% off schedule for a one year contract for 2016-2017. Its offer for a two year contract was 3% on schedule for 2016-2017 and 1% off schedule, with no increase for 2017-2018. The Association has offered 3% on schedule and 2% off schedule for 2016-2017.

It is recommended that the salary increase be over a two year period. It is recommended that there be a retroactive 2% on schedule increase for 2016-2017 with a 1% off schedule payment. It is further recommended that effective July1, 2017 there be an additional 2% on schedule increase and there be a 1% off schedule payment for 2017-2018 school year.

This recommendation is made with recognition of the Association's concerns with recruiting and encouraging teacher retention and with the District's reluctance to commit to this degree of obligation. It is noted that these salary increases and payments are part of an increase in expenditures for the benefit of teachers, including an increase in benefits, longevity payment,

stipends and a 1% payment for voluntary professional development.

Two year agreement would provide for :

2% salary increase effective July 1, 2016
1% off-schedule bonus for 2016-17

2% salary increase effective July 1, 2017
1% off-schedule bonus for 2017-2018

One-time 1% off salary schedule for participation in 12 hours of professional development. Participation is voluntary. Payment contingent on completion by December 1, 2017. Payment made on February 18, 2018.

13.5 — Longevity will be rolled into Salary Schedule enabling credit for non-Twin Rivers years of service in defined circumstances, according to District proposal. Addition of 30 year step as proposed by District. While this would require some retroactive payment, it is recommended that in line with the parties' initial agreement on this issue, that the adjustment be made effective July 1, 2016.

13.6.1 — Masters Stipend will be raised to \$2,000 beginning in 2017-2018.

Nurses moved to salary schedule 2 — additional 6 work days.

ARTICLE 14 - BENEFITS

Increase in benefits cap by \$52 per month beginning in 2017-2018. Any employee enrolled in employee only plan will be reimbursed for increase in premium for 2016-2017.

CONCLUSION

It is the hope that these recommendations will assist the parties in negotiating a settlement to the current impasse.

Dated: June 12, 2017

David Handsker
David S. Handsker, Chair Panel Member

Concur X
Concur in part _____
Dissent _____
Dissent in part _____

Ronald W. Bennett
Ronald W. Bennett, Employer Panel Member

Concur _____
Concur in part _____
Dissent _____
Dissent in part X

Cathy McGuigan
Cathy McGuigan, Union Panel Member

Twin Rivers Unified School District – Twin Rivers United Educators
Collective Bargaining Impasse Factfinding PERB Case No: SA-IM-3403-E

Partial Dissent of Association-Appointed Panel Member,

Cathy McGuigan, CTA Staff, Support Specialist

Per Government Code 3548.3, as a panel member to the above-referenced Factfinding, I submit the following to be attached to the “Factfinding Report and Recommended Terms of Settlement” dated June 12, 2017.

As a Panel member, while I support most of the recommendations of the Factfinding Panel Chair David Handscher’s advisory recommendations for settlement, I do not fully concur with all the elements as outlined below.

The negotiations impasse between the parties, as certified by the Public Employees Relations Board, is for the 2016/2017 limited contract reopeners. The Chair’s recommendations go beyond the scope of negotiations at impasse before the Panel and includes recommendations not only for 2016/2017, but includes recommendations for 2017/2018. The parties’ Collective Bargaining Agreement expires June 30, 2017, and the Association has lawfully “sunshined” its initial contract proposals for a successor contract. Recommending a two-year settlement that includes extending the current contract by one year does not take into consideration the fact that the parties have already begun the bargaining process for 2017/18 for a full successor contract that potentially encompasses other issues to be addressed in the contract for 2017/18.

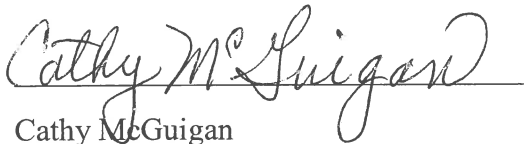
In terms of salary, the Chair’s recommendation for salary is not sufficient in order to improve the District’s ability to attract and retain teachers, particularly in light of a recommended two-year agreement. The District did not make an “inability to pay argument” during the Factfinding hearing. In fact, the District has received significant revenue increases since the implementation of California’s education funding under the Local Control Funding Formula (LCFF). The District has received the following ongoing increases in revenue under LCFF funding: for 2014/15, 9.87%; for 2015/16, 11.7%; for 2016/17, 4.90%; and for 2017/18 is expected to receive an increase of 2.59%. The District also received significant one-time discretionary revenue: for 2015/16, over \$12 million; and for 2016/17, over \$4.8 million. Although the District’s ongoing revenue has significantly increased, the amount the District spends on teachers’ salaries has not kept pace.

As presented to the Panel, the Association’s salary comparability group of unified, neighboring school districts demonstrates that the salaries for teachers in Twin Rivers, at all levels except for beginning teachers, is below average. In comparing total compensation, total compensation is below average at all levels. In this time of California’s well recognized teacher shortage, Twin Rivers Unified School District can afford to improve its ability to attract and retain the best and most highly qualified teachers for its students.

In terms of class size, the District receives from the state specific grade span adjustment revenue for grades K-3 in the amount of 10.4% of the K-3 base grant funding. Under the law, a district is

only eligible for this funding if it satisfies one of three conditions: (1) making progress toward maintaining a K-3 class size enrollment of not more than 24 students per school site; (2) maintaining such class sizes; or (3) having “a collectively bargained alternative annual average class enrollment for each schoolsite in those grades...” (Cal. Educ. Code §42238.02 (d)(3)(B)). Therefore, a recommendation of anything greater than 24 to 1 in Kindergarten through grades 3 is not consistent with the law. The Chair references California Education Code 42238.02(d)(2) in his recommendations, which I have attached hereto [Association’s Factfinding Binder, Tab 4, pages 4-109 through 4-116] and request that they be included with my partial dissent.

Partial dissent issued on June 14, 2017 by

A handwritten signature in black ink, reading "Cathy McGuigan". The signature is written in a cursive style with a horizontal line underneath the name.

Cathy McGuigan
CTA Staff, Support Specialist

State of California

EDUCATION CODE

Section 42238.02

42238.02. (a) The amount computed pursuant to this section shall be known as the school district and charter school local control funding formula.

(b) (1) For purposes of this section “unduplicated pupil” means a pupil enrolled in a school district or a charter school who is either classified as an English learner, eligible for a free or reduced-price meal, or is a foster youth. A pupil shall be counted only once for purposes of this section if any of the following apply:

(A) The pupil is classified as an English learner and is eligible for a free or reduced-price meal.

(B) The pupil is classified as an English learner and is a foster youth.

(C) The pupil is eligible for a free or reduced-price meal and is classified as a foster youth.

(D) The pupil is classified as an English learner, is eligible for a free or reduced-price meal, and is a foster youth.

(2) Under procedures and timeframes established by the Superintendent, commencing with the 2013–14 fiscal year, a school district or charter school shall annually submit its enrolled free and reduced-price meal eligibility, foster youth, and English learner pupil-level records for enrolled pupils to the Superintendent using the California Longitudinal Pupil Achievement Data System.

(3) (A) Commencing with the 2013–14 fiscal year, a county office of education shall review and validate certified aggregate English learner, foster youth, and free or reduced-price meal eligible pupil data for school districts and charter schools under its jurisdiction to ensure the data is reported accurately. The Superintendent shall provide each county office of education with appropriate access to school district and charter school data reports in the California Longitudinal Pupil Achievement Data System for purposes of ensuring data reporting accuracy.

(B) The Controller shall include the instructions necessary to enforce paragraph (2) in the audit guide required by Section 14502.1. The instructions shall include, but are not necessarily limited to, procedures for determining if the English learner, foster youth, and free or reduced-price meal eligible pupil counts are consistent with the school district’s or charter school’s English learner, foster youth, and free or reduced-price meal eligible pupil records.

(4) The Superintendent shall make the calculations pursuant to this section using the data submitted by local educational agencies, including charter schools, through the California Longitudinal Pupil Achievement Data System. Under timeframes and procedures established by the Superintendent, school districts and charter schools may review and revise their submitted data on English learner, foster youth, and free

or reduced-price meal eligible pupil counts to ensure the accuracy of data reflected in the California Longitudinal Pupil Achievement Data System.

(5) The Superintendent shall annually compute the percentage of unduplicated pupils for each school district and charter school by dividing the enrollment of unduplicated pupils in a school district or charter school by the total enrollment in that school district or charter school pursuant to all of the following:

(A) For the 2013–14 fiscal year, divide the sum of unduplicated pupils for the 2013–14 fiscal year by the sum of the total pupil enrollment for the 2013–14 fiscal year.

(B) For the 2014–15 fiscal year, divide the sum of unduplicated pupils for the 2013–14 and 2014–15 fiscal years by the sum of the total pupil enrollment for the 2013–14 and 2014–15 fiscal years.

(C) For the 2015–16 fiscal year and each fiscal year thereafter, divide the sum of unduplicated pupils for the current fiscal year and the two prior fiscal years by the sum of the total pupil enrollment for the current fiscal year and the two prior fiscal years.

(D) (i) For purposes of the quotients determined pursuant to subparagraphs (B) and (C), the Superintendent shall use a school district's or charter school's enrollment of unduplicated pupils and total pupil enrollment in the 2014–15 fiscal year instead of the enrollment of unduplicated pupils and total pupil enrollment in the 2013–14 fiscal year if doing so would yield an overall greater percentage of unduplicated pupils.

(ii) It is the intent of the Legislature to review each school district and charter school's enrollment of unduplicated pupils for the 2013–14 and 2014–15 fiscal years and provide one-time funding, if necessary, for a school district or charter school with higher enrollment of unduplicated pupils in the 2014–15 fiscal year as compared to the 2013–14 fiscal year.

(6) The data used to determine the percentage of unduplicated pupils shall be final once that data is no longer used in the current fiscal year calculation of the percentage of unduplicated pupils. This paragraph does not apply to a change that is the result of an audit that has been appealed pursuant to Section 41344.

(c) Commencing with the 2013–14 fiscal year and each fiscal year thereafter, the Superintendent shall annually calculate a local control funding formula grant for each school district and charter school in the state pursuant to this section.

(d) The Superintendent shall compute a grade span adjusted base grant equal to the total of the following amounts:

(1) For the 2013–14 fiscal year, a base grant of:

(A) Six thousand eight hundred forty-five dollars (\$6,845) for average daily attendance in kindergarten and grades 1 to 3, inclusive.

(B) Six thousand nine hundred forty-seven dollars (\$6,947) for average daily attendance in grades 4 to 6, inclusive.

(C) Seven thousand one hundred fifty-four dollars (\$7,154) for average daily attendance in grades 7 and 8.

(D) Eight thousand two hundred eighty-nine dollars (\$8,289) for average daily attendance in grades 9 to 12, inclusive.

(2) In each year the grade span adjusted base grants in paragraph (1) shall be adjusted by the percentage change in the annual average value of the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as published by the United States Department of Commerce for the 12-month period ending in the third quarter of the prior fiscal year. This percentage change shall be determined using the latest data available as of May 10 of the preceding fiscal year compared with the annual average value of the same deflator for the 12-month period ending in the third quarter of the second preceding fiscal year, using the latest data available as of May 10 of the preceding fiscal year, as reported by the Department of Finance.

(3) (A) The Superintendent shall compute an additional adjustment to the kindergarten and grades 1 to 3, inclusive, base grant as adjusted for inflation pursuant to paragraph (2) equal to 10.4 percent. The additional grant shall be calculated by multiplying the kindergarten and grades 1 to 3, inclusive, base grant, as adjusted by paragraph (2), by 10.4 percent.

(B) Until paragraph (4) of subdivision (b) of Section 42238.03 is effective, as a condition of the receipt of funds in this paragraph, a school district shall make progress toward maintaining an average class enrollment of not more than 24 pupils for each schoolsite in kindergarten and grades 1 to 3, inclusive, unless a collectively bargained alternative annual average class enrollment for each schoolsite in those grades is agreed to by the school district, pursuant to the following calculation:

(i) Determine a school district's average class enrollment for each schoolsite for kindergarten and grades 1 to 3, inclusive, in the prior year. For the 2013–14 fiscal year, this amount shall be the average class enrollment for each schoolsite for kindergarten and grades 1 to 3, inclusive, in the 2012–13 fiscal year.

(ii) Determine a school district's proportion of total need pursuant to paragraph (2) of subdivision (b) of Section 42238.03.

(iii) Determine the percentage of the need calculated in clause (ii) that is met by funding provided to the school district pursuant to paragraph (3) of subdivision (b) of Section 42238.03.

(iv) Determine the difference between the amount computed pursuant to clause (i) and an average class enrollment of not more than 24 pupils.

(v) Calculate a current year average class enrollment adjustment for each schoolsite for kindergarten and grades 1 to 3, inclusive, equal to the adjustment calculated in clause (iv) multiplied by the percentage determined pursuant to clause (iii).

(C) School districts that have an average class enrollment for each schoolsite for kindergarten and grades 1 to 3, inclusive, of 24 pupils or less for each schoolsite in the 2012–13 fiscal year, shall be exempt from the requirements of subparagraph (B) so long as the school district continues to maintain an average class enrollment for each schoolsite for kindergarten and grades 1 to 3, inclusive, of not more than 24 pupils, unless a collectively bargained alternative ratio is agreed to by the school district.

(D) Upon full implementation of the local control funding formula, as a condition of the receipt of funds in this paragraph, all school districts shall maintain an average

class enrollment for each schoolsite for kindergarten and grades 1 to 3, inclusive, of not more than 24 pupils for each schoolsite in kindergarten and grades 1 to 3, inclusive, unless a collectively bargained alternative ratio is agreed to by the school district.

(E) The average class enrollment requirement for each schoolsite for kindergarten and grades 1 to 3, inclusive, established pursuant to this paragraph shall not be subject to waiver by the state board pursuant to Section 33050 or by the Superintendent.

(F) The Controller shall include the instructions necessary to enforce this paragraph in the audit guide required by Section 14502.1. The instructions shall include, but are not necessarily limited to, procedures for determining if the average class enrollment for each schoolsite for kindergarten and grades 1 to 3, inclusive, exceeds 24 pupils, or an alternative average class enrollment for each schoolsite pursuant to a collectively bargained alternative ratio. The procedures for determining average class enrollment for each schoolsite shall include criteria for employing sampling.

(4) The Superintendent shall compute an additional adjustment to the base grant for grades 9 to 12, inclusive, as adjusted for inflation pursuant to paragraph (2), equal to 2.6 percent. The additional grant shall be calculated by multiplying the base grant for grades 9 to 12, inclusive, as adjusted by paragraph (2), by 2.6 percent.

(e) The Superintendent shall compute a supplemental grant add-on equal to 20 percent of the base grants as specified in subparagraphs (A) to (D), inclusive, of paragraph (1) of subdivision (d), as adjusted by paragraphs (2) to (4), inclusive, of subdivision (d), for each school district's or charter school's percentage of unduplicated pupils calculated pursuant to paragraph (5) of subdivision (b). The supplemental grant shall be calculated by multiplying the base grants as specified in subparagraphs (A) to (D), inclusive, of paragraph (1), as adjusted by paragraphs (2) to (4), inclusive, of subdivision (d), by 20 percent and by the percentage of unduplicated pupils calculated pursuant to paragraph (5) of subdivision (b) in that school district or charter school. The supplemental grant shall be expended in accordance with the regulations adopted pursuant to Section 42238.07.

(f) (1) The Superintendent shall compute a concentration grant add-on equal to 50 percent of the base grants as specified in subparagraphs (A) to (D), inclusive, of paragraph (1) of subdivision (d), as adjusted by paragraphs (2) to (4), inclusive, of subdivision (d), for each school district's or charter school's percentage of unduplicated pupils calculated pursuant to paragraph (5) of subdivision (b) in excess of 55 percent of the school district's or charter school's total enrollment. The concentration grant shall be calculated by multiplying the base grants as specified in subparagraphs (A) to (D), inclusive, of paragraph (1) of subdivision (d), as adjusted by paragraphs (2) to (4), inclusive, of subdivision (d), by 50 percent and by the percentage of unduplicated pupils calculated pursuant to paragraph (5) of subdivision (b) in excess of 55 percent of the total enrollment in that school district or charter school.

(2) (A) For a charter school physically located in only one school district, the percentage of unduplicated pupils calculated pursuant to paragraph (5) of subdivision (b) in excess of 55 percent used to calculate concentration grants shall not exceed the percentage of unduplicated pupils calculated pursuant to paragraph (5) of subdivision (b) in excess of 55 percent of the school district in which the charter school is

physically located. For a charter school physically located in more than one school district, the charter school's percentage of unduplicated pupils calculated pursuant to paragraph (5) of subdivision (b) in excess of 55 percent used to calculate concentration grants shall not exceed that of the school district with the highest percentage of unduplicated pupils calculated pursuant to paragraph (5) of subdivision (b) in excess of 55 percent of the school districts in which the charter school has a school facility. The concentration grant shall be expended in accordance with the regulations adopted pursuant to Section 42238.07.

(B) For purposes of this paragraph and subparagraph (A) of paragraph (1) of subdivision (f) of Section 42238.03, a charter school shall report its physical location to the department under timeframes established by the department. For a charter school authorized by a school district, the department shall include the authorizing school district in the department's determination of physical location. For a charter school authorized on appeal pursuant to subdivision (j) of Section 47605, the department shall include the sponsoring school district in the department's determination of physical location. The reported physical location of the charter school shall be considered final as of the second principal apportionment for that fiscal year. For purposes of this paragraph, the percentage of unduplicated pupils of the school district associated with the charter school pursuant to subparagraph (A) shall be considered final as of the second principal apportionment for that fiscal year.

(g) The Superintendent shall compute an add-on to the total sum of a school district's or charter school's base, supplemental, and concentration grants equal to the amount of funding a school district or charter school received from funds allocated pursuant to the Targeted Instructional Improvement Block Grant program, as set forth in Article 6 (commencing with Section 41540) of Chapter 3.2, for the 2012–13 fiscal year, as that article read on January 1, 2013. A school district or charter school shall not receive a total funding amount from this add-on greater than the total amount of funding received by the school district or charter school from that program in the 2012–13 fiscal year. The amount computed pursuant to this subdivision shall reflect the reduction specified in paragraph (2) of subdivision (a) of Section 42238.03.

(h) (1) The Superintendent shall compute an add-on to the total sum of a school district's or charter school's base, supplemental, and concentration grants equal to the amount of funding a school district or charter school received from funds allocated pursuant to the Home-to-School Transportation program, as set forth in former Article 2 (commencing with Section 39820) of Chapter 1 of Part 23.5, former Article 10 (commencing with Section 41850) of Chapter 5, and the Small School District Transportation program, as set forth in former Article 4.5 (commencing with Section 42290), as those articles read on January 1, 2013, for the 2012–13 fiscal year. A school district or charter school shall not receive a total funding amount from this add-on greater than the total amount received by the school district or charter school for those programs in the 2012–13 fiscal year. The amount computed pursuant to this subdivision shall reflect the reduction specified in paragraph (2) of subdivision (a) of Section 42238.03.

(2) If a home-to-school transportation joint powers agency, established pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code for purposes of providing pupil transportation, received an apportionment directly from the Superintendent from any of the funding sources specified in paragraph (1) for the 2012–13 fiscal year, the joint powers agency may identify the member local educational agencies and transfer entitlement to that funding to any of those member local educational agencies by reporting to the Superintendent, on or before September 30, 2015, the reassignment of a specified amount of the joint powers agency's 2012–13 fiscal year entitlement to the member local educational agency. Commencing with the 2015–16 fiscal year, the Superintendent shall compute an add-on to the total sum of a school district's or charter school's base, supplemental, and concentrations grants equal to the amount of the entitlement to funding transferred by the joint powers agency to the member school district or charter school.

(i) (1) The sum of the local control funding formula rates computed pursuant to subdivisions (c) to (f), inclusive, shall be multiplied by:

(A) For school districts, the average daily attendance of the school district in the corresponding grade level ranges computed pursuant to Section 42238.05, excluding the average daily attendance computed pursuant to paragraph (2) of subdivision (a) of Section 42238.05 for purposes of the computation specified in subdivision (d).

(B) For charter schools, the total current year average daily attendance in the corresponding grade level ranges.

(2) The amount computed pursuant to Article 4 (commencing with Section 42280) shall be added to the amount computed pursuant to paragraphs (1) to (4), inclusive, of subdivision (d), as multiplied by subparagraph (A) or (B) of paragraph (1), as appropriate.

(j) The Superintendent shall adjust the sum of each school district's or charter school's amount determined in subdivisions (g) to (i), inclusive, pursuant to the calculation specified in Section 42238.03, less the sum of the following:

(1) (A) For school districts, the property tax revenue received pursuant to Chapter 3.5 (commencing with Section 75) and Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code.

(B) For charter schools, the in-lieu property tax amount provided to a charter school pursuant to Section 47635.

(2) The amount, if any, received pursuant to Part 18.5 (commencing with Section 38101) of Division 2 of the Revenue and Taxation Code.

(3) The amount, if any, received pursuant to Chapter 3 (commencing with Section 16140) of Part 1 of Division 4 of Title 2 of the Government Code.

(4) Prior years' taxes and taxes on the unsecured roll.

(5) Fifty percent of the amount received pursuant to Section 41603.

(6) The amount, if any, received pursuant to the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code), less any amount received pursuant to Section 33401 or 33676 of the Health and Safety Code that is used for land acquisition, facility construction, reconstruction, or remodeling, or deferred maintenance and that is not an amount received pursuant

to Section 33492.15, or paragraph (4) of subdivision (a) of Section 33607.5, or Section 33607.7 of the Health and Safety Code that is allocated exclusively for educational facilities.

(7) The amount, if any, received pursuant to Sections 34177, 34179.5, 34179.6, 34183, and 34188 of the Health and Safety Code.

(8) Revenue received pursuant to subparagraph (B) of paragraph (3) of subdivision (e) of Section 36 of Article XIII of the California Constitution.

(k) A school district shall annually transfer to each of its charter schools funding in lieu of property taxes pursuant to Section 47635.

(l) (1) Nothing in this section shall be interpreted to authorize a school district that receives funding on behalf of a charter school pursuant to Section 47651 to redirect this funding for another purpose unless otherwise authorized in law pursuant to paragraph (2) or pursuant to an agreement between the charter school and its chartering authority.

(2) A school district that received funding on behalf of a locally funded charter school in the 2012–13 fiscal year pursuant to paragraph (2) of subdivision (b) of Section 42605, Section 42606, and subdivision (b) of Section 47634.1, as those sections read on January 1, 2013, or a school district that was required to pass through funding to a conversion charter school in the 2012–13 fiscal year pursuant to paragraph (2) of subdivision (b) of Section 42606, as that section read on January 1, 2013, may annually redirect for another purpose a percentage of the amount of the funding received on behalf of that charter school. The percentage of funding that may be redirected shall be determined pursuant to the following computation:

(A) (i) Determine the sum of the need fulfilled for that charter school pursuant to paragraph (3) of subdivision (b) of Section 42238.03 in the then current fiscal year for the charter school.

(ii) Determine the sum of the need fulfilled in every fiscal year before the then current fiscal year pursuant to paragraph (3) of subdivision (b) of Section 42238.03 adjusted for changes in average daily attendance pursuant to paragraph (3) of subdivision (a) of Section 42238.03 for the charter school.

(iii) Subtract the amount computed pursuant to paragraphs (1) to (3), inclusive, of subdivision (a) of Section 42238.03 from the amount computed for that charter school under the local control funding formula entitlement computed pursuant to subdivision (i) of this section.

(iv) Compute a percentage by dividing the sum of the amounts computed to clauses (i) and (ii) by the amount computed pursuant to clause (iii).

(B) Multiply the percentage computed pursuant to subparagraph (A) by the amount of funding the school district received on behalf of the charter school in the 2012–13 fiscal year pursuant to paragraph (2) of subdivision (b) of Section 42605, Section 42606, and subdivision (b) of Section 47634.1, as those sections read on January 1, 2013.

(C) The maximum amount that may be redirected shall be the lesser of the amount of funding the school district received on behalf of the charter school in the 2012–13 fiscal year pursuant to paragraph (2) of subdivision (b) of Section 42605, Section

42606, and subdivision (b) of Section 47634.1, as those sections read on January 1, 2013, or the amount computed pursuant to subparagraph (B).

(3) Commencing with the 2013–14 fiscal year, a school district operating one or more affiliated charter schools shall provide each affiliated charter school schoolsite with no less than the amount of funding the schoolsite received pursuant to the charter school block grant in the 2012–13 fiscal year.

(m) Any calculations in law that are used for purposes of determining if a local educational agency is an excess tax school entity or basic aid school district, including, but not limited to, this section and Sections 42238.03, 41544, 47632, 47660, 47663, 48310, and 48359.5, and Section 95 of the Revenue and Taxation Code, shall be made exclusive of the revenue received pursuant to subparagraph (B) of paragraph (3) of subdivision (e) of Section 36 of Article XIII of the California Constitution.

(n) The funds apportioned pursuant to this section and Section 42238.03 shall be available to implement the activities required pursuant to Article 4.5 (commencing with Section 52060) of Chapter 6.1 of Part 28 of Division 4.

(o) A school district that does not receive an apportionment of state funds pursuant to this section, as implemented pursuant to Section 42238.03, excluding funds apportioned pursuant to the requirements of subparagraph (A) of paragraph (2) of subdivision (e) of Section 42238.03, shall be considered a “basic aid school district” or an “excess tax entity.”

(Amended by Stats. 2015, Ch. 13, Sec. 24. (AB 104) Effective June 24, 2015.)